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REMARKS

Claims 5-17 and 19 are pending in this application.

The Office Action rejects, under 35 U.S.C. § 102, claims 5-11 over Grube et al. (U.S. Patent No. 5,666,661). The Office Action also rejects, under 35 U.S.C. § 103, claims 12, 14-17, and 19 over Grube et al. and Mauney et al. (U.S. Patent No. 6,865,372) and claim 13 over Grube and 3G TR 25.924 V1.0.0 (1999-12) Technical Report, 3rd Generation Partnership Project; Technical Specification Group Radio Access Network; Opportunity Driven Multiple Access. These rejections are respectfully traversed.

Applicants assert Grube et al. fails to teach:

at one or more mobile stations of the radiotelephone system, detecting other mobile stations to which radio propagation conditions are sufficiently good and at the base station, if the radio propagation conditions between the first mobile station and the second mobile station are sufficiently good, instructing the first mobile station and the second mobile station to establish direct communication

as recited in independent claim 5.

Grube et al. discloses a method for automatically switching between a direct mode of operation in which two communication units communicate directly and a system mode of operation in which two communication units communicate via a system communication resource. In the method taught in Grube, a communication unit first initiates a call to another communication unit (see Fig. 2 and accompanying description). The communication resource controller 101 then determines the geographic locations of the two communication units and then determines whether the communication units are close enough to establish direct communication therebetween.

Grube only discloses a process performed at either a communication unit (102, 103) or a resource controller (101). Grube does not disclose a base station that instructs a mobile station to establish direct communications based on one or more mobile stations detecting other mobile stations to which radio propagation conditions are sufficiently good. For example, Fig. 2 of

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Grube et al. expressly illustrates a distance relationship is determined in the resource controller without the communication units making the determination. The resource controller does not use the detection by one or more mobile stations of other mobile stations to which radio propagation conditions are sufficiently good, as claimed in independent claim 5. However, while in Fig. 3, Grube et al. does disclose a first communication unit determining a distance between two communication units for operating in a new mode, this determination is not used by the resource controller.

Furthermore, Grube et al. does not disclose detecting other radio mobile stations to which radio propagation conditions are sufficiently good. Grube et al. only discloses determining the distance between first and second radio communication units (201, 301). This is not the determination of whether radio propagation conditions between a first mobile station and a second mobile station are sufficiently good. Even if two mobile stations have a distance relationship that is favorable to a predetermined threshold (202), such a distance does not guarantee radio propagation conditions that are sufficiently good. For example, environmental conditions, such as a wall or other obstacles between to mobile stations, affect radio propagation conditions and such environmental conditions often cause poor radio propagation conditions, regardless of a favorable distance relationship.

Thus, Grube et al. fails to teach at one or more mobile stations of the radiotelephone system, detecting other mobile stations to which radio propagation conditions are sufficiently good and at a base station, if the radio propagation conditions between the first mobile station and the second mobile station are sufficiently good, instructing the first mobile station and the second mobile station to establish direct communication as recited in independent claim 5.

With respect to claims 14 and 17, Mauney et al. fails to make up for the deficiencies of Grube et al. and such is not asserted by the Office Action.

Therefore, Applicants respectfully submit that independent claims 5, 14, and 17 define patentable subject matter. The remaining claims depend from the independent claims and therefore also define patentable subject matter. Accordingly, Applicants respectfully request the withdrawal of the rejections under 35 U.S.C. § 102 and 35 U.S.C. § 103.

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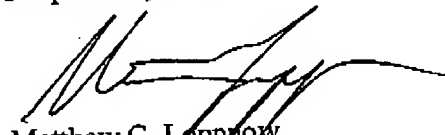
BEST AVAILABLE COPYCONCLUSION

Applicants respectfully submit this application is in condition for allowance. Favorable consideration and prompt allowance of claims 5-17 and 19 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the telephone number listed below.

The Commissioner is hereby authorized to deduct any fees arising as a result of this Amendment or any other communication from or to credit any overpayments to Deposit Account No. 50-2117.

Respectfully submitted,



Matthew C. Loppnow
Attorney for Applicant
Registration No. 45,314

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Phone No. (847) 523-2585
Fax No. (847) 523-2350

Please send correspondence to:
Motorola, Inc.
Intellectual Property
600 North U.S. Highway 45
Libertyville, IL 60048